

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1797 W/ CS(PCB LGV 03-03) Ground Rents for Leased Governmental Property  
**SPONSOR(S):** Local Government & Veterans' Affairs and Sorenson  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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| REFERENCE  | ACTION               | ANALYST                | STAFF DIRECTOR         |
|--|----------------------|------------------------|------------------------|
| 1) <u>Local Government &amp; Veterans' Affairs</u> | <u>17 Y, 0 N</u>     | <u>Highsmith-Smith</u> | <u>Highsmith-Smith</u> |
| 2) <u>Finance and Tax</u>                          | <u>19 Y 2 N w/CS</u> | <u>Monroe</u>          | <u>Diez-Arguelles</u>  |
| 3) _____   | _____                | _____                  | _____                  |
| 4) _____   | _____                | _____                  | _____                  |
| 5) _____   | _____                | _____                  | _____                  |

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**SUMMARY ANALYSIS**

This bill allows community development districts to enter into contracts with governmental entities to collect rent on ground leases. It also permits these community development districts to contract with county tax collectors to have them collect the ground rent using the procedures authorized in s. 197.3631, other than those in s. 197.3632.

This bill has no effect on the state budget.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Currently, if a governmental entity leases land to a private individual or company, they have the same remedies available to them to collect unpaid rent as are available to any other land holder. Under this bill, the governmental entity could contract with a community development district and have the community development district collect the ground rent. The community development district would then be authorized to contract with the county tax collector to have the tax collector collect that rent.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

Current law authorizes community development districts and the governing boards of such districts to exercise various powers. Among them, the power to determine, order, levy, impose, collect, and enforce special assessments pursuant to chapter 190, F. S., and chapter 170, F.S. Such special assessments may, in the discretion of the district, be collected and enforced pursuant to the provisions of ss. 197.3631, 197.3632, and 197.3635, or chapter 170, F.S.

Section 197.3631, F. S., contains general provisions regarding the collection of non-ad valorem assessments. This section states that such a collection may be made by any method authorized by law including the uniform collection method described in s. 197.3632, F.S.

Section 197.3632, F. S., outlines the uniform method for the levy, collection and enforcement of non-ad valorem assessments. Under this method a local government may enter into a written agreement with the tax collector and the property appraiser. The agreement then provides that the special assessment will appear on the property owner's regular tax bill. Under this method, the special assessment is collected using the same method as the ad valorem property tax and non-payment of the special assessment is subject to the same collection provisions as the ad valorem property tax.

Landowner, by definition contained in s. 190.003(13), F.S., means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

##### **Proposed Changes**

This bill provides a method by which governmental entities could contract with community development districts to have the district undertake the collection of ground rent from landowners. The bill also

authorizes the boards of community development districts to contract with tax collectors for the collection of these rents.

C. SECTION DIRECTORY:

Section 1 – Amends s. 190.011 (7), F. S., to authorize the collection of ground rent due a governmental entity, by a community development district. In addition, it authorizes the community development district to enter into a contract with the county tax collector to have the county tax collector collect the ground rent using the procedures authorized in s. 197.3631, other than those in s. 197.3632.

Section 2 – Provides that the bill shall take effect upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Pursuant to s. 192.091, F.S., property appraisers and tax collectors are entitled to payments for services, the amount of which are dependent on the officer providing the service and/or the amounts of special assessments collected and remitted.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 14, 2003, the Committee on Finance and Tax passed a strike-everything amendment. This amendment was an attempt to solve problems with this bill that were raised by the Florida Tax Collectors' Association.

The original bill provided for a method by which governmental entities, with a contract between the landowners and the governmental entity, could undertake the collection of ground rent from landowners through the levy of maintenance special assessments pursuant to general law. The bill authorized the boards of community development districts to include amounts due governmental entities for leased ground, pursuant to a contract, as part of the maintenance special assessment. As such, people renting from a governmental entity that had entered into such an agreement would have been subject to enforcement mechanisms which could not be used by any other lessor.

On April 10, 2003, Ken van Assenderp, who represents the Florida Tax Collectors' Association, sent a letter expressing the tax collectors' opposition to this bill as originally filed. In that letter, Mr. van Assenderp pointed out the following issues:

- No local government should be in the position of using its powers of taxation to collect rent for another landowner, even if that landowner is another local government
- While non-ad valorem and ad valorem assessments constitute first liens on property, rent on a ground lease is not a first lien. By mixing first liens and liens that are not first liens on the tax bill, enforcement of the tax bill might have become problematic.
- Under Section 4, Article X of the Florida Constitution, a homestead is "exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement and repair thereof, or obligations contracted for house, field or other labor performed on the realty". The bill took rental payments due to a local government and collected them as non-ad valorem assessments. As such, this bill might have resulted in homesteaded property being sold for payment of the rent on the underlying land in violation of this provision of the Constitution.

The strike-everything amendment was worked out in order to solve these problems.